DEFENSE CONTRACT MANAGEMENT AGENCY

DCMA

ACQUISITION INSIGHT GLOBAL ENGAGEMENT

Property Administration (PA)
Loss, Theft, Damage and Destruction (LTDD)

Presented By:
Mr. Ed Hoenig
(804) 734-1139
Edwin.hoenig@dcma.mil

April 2011

Property Administration (PA)

Terminal Learning Objective (TLO):

- To recognize and define the process for reporting government property that has been discovered to be Lost, Stolen, Damaged or Destroyed while it was in the possession of the contractor.

Enabling Learning Objectives (ELO):

- ELO #1 To understand the LTDD property process to include the Property Division Reach Back effort and the flow of information required to support the LTDD Report.
- ELO#2 To understand the CCAS Property Administration responsibilities in the LTDD property process
- ELO#3 To Understand the LTDD process when Government property is in the possession of a Subcontractor
- ELO#4- To Understand the reporting requirement for reporting LTDD to the Army for assets on temporary loan to the contractor.

Property Administration (PA)

- **What is an LTDD?**
  - An LTDD occurs when accountable Government property in the contractor's possession is either lost, stolen (theft), damaged or destroyed
- **Who are the "Players regarding Reporting/Investigating LTDD?**
  - Contractors
    - LOGCAP, AFCAP, TWCA
  - Property Administrator (PA)
    - Reach Back (RB-PA)
    - CCAS-PA
    - Prime PA (LOGCAP/AFCAP)
  - Contracting Officer (KO)/Administrative Contracting Officer (ACO)
  - Quality Assurance Representative(QAR) or Subject Matter Expert (SME)

Property Administration

- **REACH BACK PROPERTY ADMINISTRATION SUPPORT FOR (LTDD) Investigations.**
  - Property Division to process and investigate all contractor reports of LTDD generated in theater
    - Background:
      - Established and approved by DCMA Senior Leadership Team (SLT) October 2009 for Property Division to provide property management assistance to the CCAS Mission in theater
    - Includes
      - Contract/Civil Augmentation Program (CAP) type contracts
      - Theater Wide Contract Administration (TWCA) contracts
      - CAP-like
  - **Investigations are to conducted IAW with:**
      - DCMA Property Management on Government Contracts instruction
      - DCMA Property Division Reach Back LTDD Instruction

Property Administration

DCMA Property Division
LTDD Reach Back Effort
Steven Abramowitz DCMAC-EY-Team
Lead 407 228-5177
Steven.abramowitz@dcma.mil

IRAQ South
Cornell Thompson DCMAC-EYC RB-PA
614 692-6494
ltddiraqsouth@dcma.mil

IRAQ North & Central
Donald Runner DCMAC-EYD RB-PA
678 503-6267
LTDDIraqNorthCentral@dcma.mil

AFGHANISTAN-ALL
Carolanne Jedlink DCMAC-EYE
224 625-8316
LTDDafghanistan@dcma.mil

KUWAIT & Middle East
Carolanne Jedlink DCMAC-EYE
224 625-8316
LTDDKuwait@dcma.mil

DCMAI Property Staff
Edwin D. Hoenig DCMAI-HAQ
804 416 9181 edwin.hoenig@dcma.mil

DCMA Iraq-Theater PA

DCMA Afghanistan Theater PA

DCMA-Kuwait Theater PA

DCMA Property Division Prime LOGCAP/AFCAP PA's

Maria McNamara DCMAC-EYG 713 718-4079
maria.mcnamara@dcma.mil All AFCAP KBR-LCIII & IV
Bonnie Resa DCMAC-EYG 713 718-4078
bonnie.resa@dcma.mil AFCAP/LCIV DYNCORP
Tom Orashan DCMAC-EYG 713 718-4077
Tom.Orashan@dcma.mil LCIV FLUOR

DCMA Iraq-South Lead PA
North Lead PA
Central Lead PA
Prime PA's
Contractors-LOGCAP/AFCAP/TWCA

DCMA Afghanistan South Lead PA/North Lead PA
DCMA Kuwait-All
Prime PA's
Contractors-LOGCAP/AFCAP/TWCA

Property Administration (PA)

Contractor Liability-A Quick Review

Limited Risk of Loss: **FAR Clause 52.245-1**

Contractor is **NOT** liable for LTDD except for the 5 Following situations;

1. A risk required to be insured
2. A risk "In-Fact" insured
3. Other Terms & Conditions of the contract
4. "Willful Misconduct" or "Lack of Good Faith" on the part of the contractor's "Managerial Personnel"
5. Failure to maintain an Acceptable Property Control/Management System plan reviewed and accepted by the government contracting office

Property Administration (PA)

What does this mean ?

- **The Government is assuming the Principle Risk <u>except</u> under very limiting circumstances.**
  - **Liability is limited to "<u>Intrinsic Value</u>"**
  - **The Government <u>cannot</u> hold an Individual liable for the loss**
  - **The Contractor must correct conditions that contributed to the loss.**

Property Administration (PA)

- **LTDD INVOLVING SUBCONTRACTORS:**
  - **If the LTDD involves Government Property in the possession of a subcontractor ensure that the prime has included the following documents/information when reporting and requesting relief of responsibility:**
    - **Documentation from the prime to the subcontractor requesting restitution for the LTDD assets.**
    - **Either documentation from the subcontractor explaining why they are not responsible for restitution or a copy of the documentation showing that payment has been made or that the government has been made whole.**
    - **If payment has been made there should also be a copy of the document showing the government has been credited for this loss and the ledger account code the proceeds were credited to.**

Property Administration (PA)

- **LTDD INVOLVING SUBCONTRACTORS:**
  - **"Third Party" Contracts**
    - **Military contracts with trucking company to move Contract Government property (under another contractors contract)**
      - In those situations where the property was in the hands of a "third party" contractor where an LTDD has occurred ensure that the Prime Contractor has included documentation to show what was manifested on the shipment and that the appropriate report of shipping discrepancy has been accomplished and filed with the military transportation unit.
  - **IN ALL CASES IF THIS DOCUMENTATION IS NOT PROVIDED THEN DO NOT PROCESS ANY RELIEF OF RESPONSIBILITY UNTIL ALL THE DOCUMENTS HAVE BEEN RECEIVED.**

Property Administration

CCAS LTDD Reporting/Investiga

Contractor

- Investigates and files an LTDD report IAW requirement of FAR GP clause 52.245-1 and Property Control Plan

- Submits notification of LTDD and report to the RB-PA (and CCAS depending on AOR policy) via the appropriate LTDD mailbox account

ltddiraqsouth@dcma.mil
LTDDIraqNorthCentral@dcma.mil
LTDDafghanistan@dcma.mil
LTDDKuwait@dcma.mil

Property Administration

CCAS LTDD Reporting/Investiga

RB-PA

Receives/reviews the contractors LTDD Report for completeness, accuracy and corrective action taken/or to be taken and either;

- ✓ Accepts the report/investigation
- ✓ Rejects the report (in writing) with issues noted and cc's the CCAS-PA element and the Prime PA (when appropriate)

Contractor statements of "recommended" or "potential" corrective actions to be taken are unacceptable. Contractor should either state that the following corrective action was TAKEN or the following corrective action is to BE TAKEN.

If TAKEN copies of documentation showing accomplishment should be part of the LTDD file.

If TO BE TAKEN than their should be a timeframe/milestones in the filed report.

Property Administration

CCAS LTDD Reporting/Investiga

RB-PA Continued

-PA's level of investigation of the contractor's LTDD submission will be based on the type of:

- LTDD Report i.e. damage loss theft, hostile action etc.
- Property involved i.e. sensitive, non sensitive and

Under $10,000 – **Excluding** sensitive property; any reports indicating theft of property or issues of potential life threatening safety incidents i.e. electrical short circuiting/fires etc.

Accept contractor's report of factual data "as is" including cases of hostile fire/action claims, if the report makes sense and adequate supporting documentation is provided*.

*Adequate supporting documentation includes but is not limited to clearly stated incident report, CAP, witness statements, clear pictures that easily support the report, etc.

Property Administration

CCAS LTDD Reporting/Investiga

RB-PA Continued

$10,000-$50,000 - **Excluding** sensitive property any reports indicating theft or issues of potential life threatening safety incidents i.e. electrical short circuiting/fires etc.

This requires electronic verification** of the report and factual information with the contractor including cases of hostile fire/action claims.

** “Electronic Verification” should be in the form of an electronic (i.e. e- mail with attachments etc.) interchange documenting the factual data and contractor statement that corrective actions have been instituted/completed where possible.

Property Administration

CCAS LTDD Reporting/Investiga RB PA Continued

<u>$50,000 or More-</u> and **<u>ALL</u>** **Cases Involving Sensitive Property, and known or potential theft of property or issues of potential life threatening safety incidents i.e. electrical short circuiting/fires etc..**

- (Includes Cases with materials, such as copper and, aluminum, that can be formed into a shaped charge-based weapon that creates a super-heated plasma cloud that is projected at incredible "muzzle, velocities." These plasma devices can penetrate hardened vehicles

- This requires an on-site verification of contractor's report and factual data by a DCMA Iraq, Afghanistan, or Kuwait representatives. This includes on-site verification that all corrective actions have been initiated and or/completed.

- Includes hostile fire/action incidents of significant facilities like DFACs, Living Support Areas (LSAs), etc. Emphasis is on ensuring only the property involved in the incident is being included in the report; i.e., no "piling on" of other LTDD incidents that should be reported separately. **Single asset hostile fire incidents with acquisition value over $50,000 may be closed based on adequate contractual factual data.**

- The request for on-site CCAS PA assistance will be made in writing via e mail with all pertinent (i.e. contractor reports, correspondence etc. attached. The e mail should clearly state to the CCAS PA what exactly you are looking for i.e. validation of corrective action, additional clarification on report etc.

- Once the on-site physical verification report is received and all questions resolved, a relief of responsibility letter shall be issued by the RB-PA and the case closed

Property Administration

CCAS LTDD Reporting/Investigati RB-PA Continued

Once the RB-PA has completed the investigation **(to include additional input from the CCAS-PA, QAR SME etc.** they will:

- Relieve the contractor of responsibility

Property individuals with a Limited Appointment Remember
You may perform the investigation of all LTDD's received but you may only relieve the contractor of responsibility in cases where
Normal LTDD does not exceed 25K per incident
War Loss does not exceed 150K per incident
In those case where you can not sign, your investigation along with supporting documents should be referred to a fully appointed PA for signature

receives ACO response

Property Administration

CCAS LTDD Reporting/Investiga RB-PA Continued

Once the LTDD is complete the RB-PA will ensure that:

- ✓ All LTDD documents (Contractor Report, Investigations, Supporting Documents and Correspondence) are placed in an electronic file and labeled with the Case Number
- ✓ All LTDD Case files are to be filed on the DCMA Share Drive at:

P:\DCMAHQ\Centers\DCMAC-E\DCMAC-EY\CCAS LTDD

Property Administration

CCAS LTDD Reporting/Investiga RB-PA Continued

Other actions that the RB-PA are responsible for:

- ✓Providing data to support CCAS PA management and surveillance of contractor in theater
- ✓Assisting as necessary the Prime PA's with data on current issues and concerns related to contractor LTDD reporting
- ✓Providing the Property Division RB Team Lead input for monthly metrics
- ✓Maintaining their LTDD database (currently MS Access)

Property Administration

CCAS LTDD Reporting/Investigati

CCAS-PA

While the responsibility rests with the RB-PA for investigating and completing the LTDD cases-This can not be accomplished without assistance and communication with the CCAS-PAs

- ✓ CCAS PA will provide additional investigation as requested by the RB PA IAW Reach Back LTDD Instruction
  - ✓ **Format for CCAS-PA Investigation report will be established in theater by the Theater PA**
- ✓ CCAS PA will provide the RB PA with any “heads-up” information i.e. local policy issues, hot topics etc. that my have an affect on the LTDD process or work load

Property Administration

CCAS LTDD Reporting/Investiga CCAS-PA Continued

- ✓CCAS PA manages data provided by RB PA's for root cause analysis, contractor risk rating, and Performance Evaluation Board (PEB) input
- ✓CCAS PA provides their RB PA counterpart with current rosters of ACO, QAR, PA assignments and contractor points of contact information.

Property Administration

CCAS LTDD Reporting/Investigati

Contracting Officer

There are certain actions associated with LTDD incidents Repairs, Replacement, and Cannibalization of Government property that require action by the KO/ACO

- ✓ Hold contractor liable for LTDD based on RB-PA's investigation/recommendation
- ✓ Approves the expenditure of funds for actions related to:
  - ➢ Any repairs for damaged property unless the contract dictates otherwise
  - ➢ Cannibalization of assets that are Beyond Economical Repair (BER) (usually a result of severe damage or total destruction)
  - ➢ Replacement of assets that may still be needed in support of contractual requirements.

Property Administration

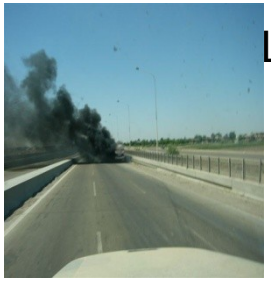
CCAS LTDD Reporting/Investiga

QAR/SME

There are certain actions associated with LTDD incidents that may require specialized knowledge of the Quality Assurance Specialist (QAR) or military Subject Matter Expert (SME)

Property Administration (PA)

- **Types of LTDD's in Theater**
  - **Damage/Destruction caused by hostile actions**
    - Make sure the contractor reports ALL assets for example if LTDD involves destruction of truck on convoy and "material" in truck is destroyed it should be itemized to prevent "piling on".
    - When backed up with the appropriate documentation will not normally require a contractor "corrective action" and cause in PA Log will show LTDD due to hostile action.
  - **Other Common Types of LTDD in Theater**
    - Damage and destruction of property due to lack of training
      - I.e. Damaged vehicles due to the lack of use of a ground guide when backing up.



Loss of personal property such as phones, body armor etc.

- Imp l left out in the issue

Property Administration (PA)

- **Types of LTDD's in Theater-Continued**
  - **Other Common Types of LTDD in Theater**
    - **Theft of Government Property under the Contract**
      - Most common misguided military removing items.
      - Theft of property should be reported to the appropriate authorities on base for investigation
  - **Theft of Government Property can have a root cause and corrective action: i.e. left "stolen" item in the DFAC or some other instance of not properly secure the GP.**
  - **In General as PA make sure that the contractor has submitted a cause for the LTDD and a corrective action. The PA should follow up to ensure that the corrective action has been implemented.**

Property Administration (PA)

- **LTDD's involving Military Property on a hand receipt**
  - **Since this property is accountable to the military it will need to be reported to the PBO (the PA should still be in the loop) usually on a FINANCIAL LIABILITY INVESTIGATION OF PROPERTY LOSS Report (FLIPL)**
- **Relief from Responsibility**
- **The determination by the "Contracting Officer" <u>serves the same purpose</u> as a "Report of Survey" (see AR 735-5) in a Military Property Account. The Contracting Officer must document the contract file to show the circumstances surrounding the LTDD and the Property Administrator's and Contracting Officer's actions to investigate the case.**

Property Administration (PA)

Lesson Summary

- An LTDD occurs when accountable property of contractor is either lost, stolen, damaged or destroyed
- Contractor submits an LTDD Report IAW their property control plan procedures and FAR requirements to the PA in theater
- PA investigates the incident and either relieves the contractor of responsibility or recommends to the ACO holding the contractor liable
- Any repairs for damaged property must be authorized by the KO/ACO unless the contract dictates otherwise
- Authority to cannibalize assets that are Beyond Economical Repair (BER) must be approved by the ACO
- Repairs for cosmetic damages ***usually*** should not be authorized.
- Generally, Government contracts do NOT hold contractors liable for Lost, Theft, Damage or Destruction to government property
- Additional Documentation is required for cases involving subcontractors

Property Administration (PA)

Lesson Summary

Limited Risk of LOSS

- The Government is assuming the Principle Risk except under very limiting circumstances.
  - Liability is limited to "Intrinsic Value"
  - The Government cannot hold an Individual liable for the loss
  - The Contractor must correct conditions that contributed to the loss.
- Types of LTDD's in Theater
  - Damage/Destruction caused by hostile actions
  - Damage and destruction of property due to lack of training
  - Loss of personal property such as phones, body armor etc.
  - Theft of Government Property under the Contract
  - LTDD's involving Military Property on a hand receipt

Property Administration (PA)

Lesson Summary

- PA is to maintain all documentation related to the LTDD investigations in a file (preferably electronic)

- Property individuals with a Limited Appointment
  - Perform the investigation of all LTDD's received
  - Relieve the contractor of responsibility in cases where
    - Normal LTDD does not exceed 25K per incident
    - War Loss does not exceed 150K per incident
  - In those case where you can not sign, your investigation along with supporting documents should be referred to a fully appointed PA for signature

Property Administration (PA)

Review Time!

- Circle your answer for each test item.

- The test is student graded (trade/pass to your nearest student).
  - ✓ correct answers. "X" incorrect answers.

- All tests are collected at the end of the lesson.

Property Administration (PA)

A. The Contractor must report a LTDD to the government as soon as it becomes known.

(True/False)

True

B. The Contractor can take as much time as needed to investigate the cause & circumstance.

(True/False)

False

C. The Contractor is not obligated to take any immediate corrective action.

(True/False)

False

D. The government PA (RB & CCAS) must investigate the LTDD to assure accurate & complete report.

(True/False)

True

E. The RB-PA must report the findings and provide recommendations to the Contracting Officer.

(True/False)

True

Property Administration (PA)

F. The Contractor must provide a Corrective Action Plan to the government to eliminate and/or reduce any future LTDD actions of this type.

(True/False)

True

G. The RB-PA should maintain a LTDD Log/Spread sheet to identify "Systemic" problems as well as to track the number of LTDD actions over a given period.

(True/False)

True

H. The Contractor is not required to maintain the records that show "Relief of Responsibility" and assure that the government inventory has been posted for accuracy to reflect the loss.

(True/False)

False

Property Administration (PA)

References (on Student Disk)

- Government Property Clause 52.245-1
- DCMA Instruction Property Management on Government Contracts http://guidebook.dcma.mil/34/index.cfm#9.
- DCMA Property Division Reach Back LTDD Instruction

Sample LTDD Cases-On Student Disk

FLC10-480007 Military Transportation

FLC11-160001 Hostile Destroyed

FLC11-310013 Destroyed by Military

Property Administration (PA)

Sequence of the LTDD Process

1. Contractor, once aware of LTDD, initiates investigation to determine root cause.
2. Contractor notifies the government PA of the LTDD, immediately upon becoming aware.
3. Contractor submits formal LTDD Report to the government PA with a Corrective Action Plan.
4. Government PA investigates the LTDD to assure Report is accurate & correct to include adequacy of root cause analysis and corrective action plan.
5. Government PA determines if the LTDD may be as a result of a systemic issue after reviewing previous LTDD's submitted by the contractor.
6. The Government PA issues Relief of Responsibility letter to the Contractor (if warranted)
7. Government PA submits the LTDD Report to the Contracting Officer with his/her recommendation to hold the Contractor liable for the LTDD.
8. Contractor notifies the government PA of actions taken to repair, replace or the disposal of the asset.
9. Contractor's records adjusted to reflect any action that may effect accountability.